

AMENDED IN SENATE JUNE 26, 2006

AMENDED IN ASSEMBLY MAY 8, 2006

AMENDED IN ASSEMBLY MAY 2, 2006

AMENDED IN ASSEMBLY APRIL 26, 2006

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

ASSEMBLY BILL

No. 2867

Introduced by Assembly Member Torrico

February 24, 2006

An act to amend Section 65091 of the Government Code, relating to land use.

LEGISLATIVE COUNSEL'S DIGEST

AB 2867, as amended, Torrico. Land use: public hearings: notice.

(1) The Planning and Zoning Law and the Subdivision Map Act require local governments to hold public hearings regarding various land use actions contemplated by those governments. If public notice of the hearing is required, that notice is required to be given in specified ways, among which is the delivery or mailing, within 10 days before the hearing, of the notice to the owner of the subject real property or the owner's duly authorized agent.

This bill ~~will~~ *would require that the notice be mailed to the owner of the subject real property as shown on the latest equalized roll, but would authorize the use of records of the county assessor or tax collector if those records contain more recent information than the information contained on the assessment roll. The bill would provide that, for purposes of ~~the Planning and Zoning Law and the Subdivision Map Act~~ notice requirements, notice shall also be given*

to an owner of a mineral right pertaining to the subject real property includes both a person or entity that who has given notice of intent to preserve a mineral right pertaining to the subject real property within the last 20 years and a current operator with operations on the subject real property as identified by the Division of Oil, Gas, and Geothermal Resources, as specified. By requiring local governments to give notice to these additional owners and operators, the bill would impose a state-mandated local program.

~~(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.~~

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 65091 of the Government Code is
2 amended to read:
3 65091. (a) When a provision of this title requires notice of a
4 public hearing to be given pursuant to this section, notice shall be
5 given in all of the following ways:
6 (1) Notice of the hearing shall be mailed or delivered at least
7 10 days prior to the hearing to the owner of the subject real
8 property or the owner's duly authorized agent, and to the project
9 applicant. For purposes of this section, owners of real property
10 include, but are not limited to, both of the following:
11 —(A) Persons and entities that have given notice of intent to
12 preserve a mineral right pertaining to the subject real property
13 within the last 20 years.

1 ~~—(B) A current operator with operations on the subject real~~
2 ~~property as identified by the Division of Oil, Gas, and~~
3 ~~Geothermal Resources. property as shown on the latest equalized~~
4 ~~assessment roll. Instead of using the assessment roll, the local~~
5 ~~agency may use records of the county assessor or tax collector if~~
6 ~~those records contain more recent information than the~~
7 ~~information contained on the assessment roll. Notice shall also~~
8 ~~be mailed to the owner's duly authorized agent, if any, and to the~~
9 ~~project applicant.~~

10 (2) *When the Subdivision Map Act (Div. 2 (commencing with*
11 *Section 66410)) requires notice of a public hearing to be given*
12 *pursuant to this section, notice shall also be given to any owner*
13 *of a mineral right pertaining to the subject real property who has*
14 *recorded a notice of intent to preserve the mineral right pursuant*
15 *to Section 883.230 of the Civil Code.*

16 ~~(2)~~

17 (3) Notice of the hearing shall be mailed or delivered at least
18 10 days prior to the hearing to each local agency expected to
19 provide water, sewage, streets, roads, schools, or other essential
20 facilities or services to the project, whose ability to provide those
21 facilities and services may be significantly affected.

22 ~~(3)~~

23 (4) Notice of the hearing shall be mailed or delivered at least
24 10 days prior to the hearing to all owners of real property as
25 shown on the latest equalized assessment roll within 300 feet of
26 the real property that is the subject of the hearing. In lieu of
27 ~~utilizing~~ *using* the assessment roll, the local agency may ~~utilize~~
28 *use* records of the county assessor or tax collector which contain
29 more recent information than the assessment roll. If the number
30 of owners to whom notice would be mailed or delivered pursuant
31 to this paragraph or paragraph (1) is greater than 1,000, a local
32 agency, in lieu of mailed or delivered notice, may provide notice
33 by placing a display advertisement of at least one-eighth page in
34 at least one newspaper of general circulation within the local
35 agency in which the proceeding is conducted at least 10 days
36 prior to the hearing.

37 ~~(4)~~

38 (5) If the notice is mailed or delivered pursuant to paragraph
39 (3), the notice shall also either be:

1 (A) Published pursuant to Section 6061 in at least one
2 newspaper of general circulation within the local agency which is
3 conducting the proceeding at least 10 days prior to the hearing.

4 (B) Posted at least 10 days prior to the hearing in at least three
5 public places within the boundaries of the local agency, including
6 one public place in the area directly affected by the proceeding.

7 (b) The notice shall include the information specified in
8 Section 65094.

9 (c) In addition to the notice required by this section, a local
10 agency may give notice of the hearing in any other manner it
11 deems necessary or desirable.

12 (d) Whenever a hearing is held regarding a permit for a
13 drive-through facility, or modification of an existing
14 drive-through facility permit, the local agency shall incorporate,
15 where necessary, notice procedures to the blind, aged, and
16 disabled communities in order to facilitate their participation in
17 any hearing on, or appeal of the denial of, a drive-through facility
18 permit. The Legislature finds that access restrictions to
19 commercial establishments affecting the blind, aged, or disabled,
20 is a critical statewide problem; therefore, this subdivision shall be
21 applicable to charter cities.

22 ~~SEC. 2. If the Commission on State Mandates determines that~~
23 ~~this act contains costs mandated by the state, reimbursement to~~
24 ~~local agencies and school districts for those costs shall be made~~
25 ~~pursuant to Part 7 (commencing with Section 17500) of Division~~
26 ~~4 of Title 2 of the Government Code.~~

27 *SEC. 2. No reimbursement is required by this act pursuant to*
28 *Section 6 of Article XIII B of the California Constitution because*
29 *a local agency or school district has the authority to levy service*
30 *charges, fees, or assessments sufficient to pay for the program or*
31 *level of service mandated by this act, within the meaning of*
32 *Section 17556 of the Government Code.*